

REMARKS

The present amendment is in response to the Office Action dated January 26, 2006. claims 1-31 are now present in this case. No claims have been amended in the present response. However, all claims are included herewith for the Examiner's convenience.

Claims 1 and 9 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 6,301,514 to Canada, U.S. Patent No. 7,085,553 to Harrenstien et al., and U.S. Patent No. 6,885,862 to Pearson. The applicants respectfully traverse this rejection and request reconsideration. In previous Office Actions, claims 1 and 9 were rejected over the combination of Canada, Fioletta, and Pearson. It was on this basis that the applicants filed a pre-appeal brief. In that brief, it was noted the Examiner has impermissibly used the claims as a roadmap to find references that describe only certain elements of the claimed invention. In the appeal brief, the applicants further noted that the references were from unrelated technologies. Based on the pre-appeal brief, prosecution of the case was reopened. However, in the present Office Action, one irrelevant reference (i.e., Fioletta) has been replaced by another irrelevant reference (Harrenstien et al.). It is noted that Harrenstien et al. and Canada et al. are from completely different patent classifications and fields of search with no overlap there between. It is further noted that Pearson is also in completely different patent classifications and fields of search than either Canada et al. or Harrenstien et al. As discussed in the pre-appeal brief, it is believed that the only suggestion for the combination of references lies in the pending claims. The Examiner has impermissibly used the claims as a roadmap to find three disparate references that each contain a portion of the method recited, by way of example, in Claim 1.

In the applicants' pre-appeal brief, filed on August 25, 2006, it was noted that the Examiner failed to provide any verifiable objective evidence of a suggestion to combine references. In response, the Examiner asserts, at pages 13-14, that the motivation to combine may be found "either in the references themselves or in the knowledge generally available to one of ordinary skill in the art." However, the Examiner goes on to recite specific motivations for inventors to create their own inventions. This utterly fails to provide any objective evidence of a motivation to

combine references, as required by law. For example, the Examiner asserts that it would be known to combine Pearson with Canada "in order to provide non-volatile storage of partial program within each wireless subscriber terminal so that the wireless subscriber terminal need not receive an entire program in a single session." (See Office Action, p. 14.) This is clearly a motivation for Pearson to create the invention of Pearson, but does not provide any motivation for combining Pearson with Canada and the Harrenstien. It should be noted that none of the pending claims are related to non-volatile storage of partial programs and are, thus, unrelated to Pearson. In another example, the Office Action asserts that Gehrig would be added to the combination "in order to provide a method and device for communication and traffic guidance systems." (See Office Action, p. 14.) The traffic guidance referred to in Gehrig is automobile traffic guidance. None of the claims in the pending application are directed to any automobile guidance system or communication system therefor. In addition, none of the other references are related to automobile guidance systems or communication systems therefor. What the Examiner has provided is a motivation for Gehrig to invent the system described in Gehrig. This is not a motivation to combine Gehrig with Canada, Harrenstien, Pearson, and Patel. The remaining description on page 14 of the present Office Action merely recite motivations for the inventor(s) to create the subject matter of their respective patents. However, at no point does the Examiner provide any motivation for combining any of the references. The Examiner must provide objective verification of motivation to combine references in order to establish a *prima facie* case of obviousness. The Examiner has failed in each and every case to provide any motivation for combining the references. As such, no *prima facie* case of obviousness has been established.

The portion of the Office Action that includes alleged support for combining Harrenstien and Canada is a direct quote from the summary of the invention of Harrenstien. This does not serve as a suggestion to combine references. Furthermore, it is noted that Harrenstien describes an information exchange system that allows a communication link to be established "without otherwise requiring a costly polling scheme." (See Abstract.) This is in sharp contrast to the methods of claims 1 and 9, which are directed to polling methods. Harrenstien describes a system that

teaches away from the use of a “costly polling scheme.” One skilled in the art would be unlikely to arrive at a polling method, such as recited in claims 1 and 9, by using references that are in completely different classifications and which, in the case of Harrenstien, teaches directly away from a polling method. Accordingly, claims 1 and 9 are clearly allowable over the combination of Canada, Harrenstien and Pearson.

Claims 2, 3, 5, 8, 10, 11, and 14-17 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Canada, Harrenstien et al., Pearson, and U.S. Patent No. 5,315,636 to Patel. The applicants respectfully traverse this rejection and request reconsideration. The inapplicability of the combination of Canada, Harrenstien and Pearson has already been described above. In rejecting these dependent claims, the Examiner has added a fourth reference from yet another different and unrelated patent classification. The Office Action asserts that it would be obvious to provide the teaching of Patel into the system of Canada, Harrenstien and Pearson “in order to enable a caller to contact a system subscriber at any location.” (See Office Action, p. 4.) The quoted section in the Office Action is taken directly from Patel and describes the motivation of Patel for inventing the system of Patel. However, it does not suggest any motivation for combining Patel with three other references from different patent classifications to reach the conclusion that the rejected claims are obvious. The Office Action provides no objectively verifiable motivation for combining these disparate references. The applicants respectfully request that the Examiner point to specific passages in the references that suggest the combination of Canada, Harrenstien, Pearson, and Patel. In the absence of such objectively verifiable motivation, there is no *prima facie* case of obviousness. Accordingly, claims 2, 3, 5, 8, 10, 11, and 14-17 are clearly allowable over the combination of references.

Claims 4 and 12 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Canada, Harrenstien et al., Pearson, Patel, and U.S. Patent No. 5,937,358 to Gehrig. The applicants respectfully traverse this rejection and request reconsideration. The Office Action rejects claims 4 and 12 over the combination of five separate references. The lack of motivation to combine the first four references has already been discussed above. For the sake of brevity, those arguments need not to be repeated herein. However, it should be apparent that there is no motivation to combine

Canada, Harrenstien, Pearson, and Patel. The Office Action states that it would have been obvious to combine Gehrig into the system of Canada, Harrenstien, Pearson, and Patel "in order to provide a method and device for communication in traffic guidance systems in that the data and voice channels reserved for traffic operation can be better utilized." (See Office Action, p. 6.) The quoted section of the Office Action is a direct quote from Gehrig and provides a motivation for Gehrig to invent the system of Gehrig. However, the claimed invention is totally unrelated to automobile traffic guidance. Gehrig has been classified in a different U.S. classification than Canada, Harrenstien, Pearson, and Patel. As such, one skilled in the art is extremely unlikely to combine five references from unrelated patent classifications to achieve the claimed invention. It appears that the Examiner has impermissibly used the patent claims as a roadmap to find separate unrelated references. The Examiner has described and alleged motivation for Gehrig to invent the invention of Gehrig, but provides no motivation for combining Gehrig with four unrelated patents. The applicants respectfully request that the Examiner point to objectively verifiable evidence that suggests the combination of references cited in the Office Action. In the absence of such objectively verifiable evidence, there is no *prima facie* case of obviousness. For at least this reason, claims 4 and 12 are allowable over the combination of Canada, Harrenstien, Pearson, Patel and Gehrig.

Claims 6 and 7 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Canada, Harrenstien et al., Pearson and U.S. Patent No. 6,014,374 to Paneth. The applicants respectfully traverse this rejection and request reconsideration. The inapplicability of combining Canada, Harrenstien, and Pearson has already been discussed in detail above. The Office Action provides no motivation to combine these three references. The Office Action asserts that it would have been obvious to provide the teaching of Paneth into the system of Canada, Harrenstien, and Pearson "in order to provide a system for the wireless transmission of multiple information signals utilizing digital time division circuits between a base station and subscriber stations." (See Office Action, p. 7.) The quoted section of the Office Action is taken directly from Paneth and provides a possible motivation for Paneth to create the invention of Paneth. However, it does not provide any motivation for the combination of

references cited in the Office Action. It should be noted that neither claims 6 nor 7 are related to multiple information signals utilizing digital time division circuits, which is the alleged motivation for combining Paneth. The applicants respectfully request that the Examiner point to objectively verifiable evidence that suggests the combination of references cited in the Office Action. In the absence of such objectively verifiable evidence, no *prima facie* case of obviousness can be established. In the absence of a *prima facie* case of obviousness, the applicants respectfully request the allowance of claims 6 and 7.

Claim 13 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Canada, Harrenstien et al., Pearson and U.S. Patent No. 6,347,092 to Serikawa et al. The applicants respectfully traverse this rejection and request reconsideration. The in applicability of combination of Canada, Harrenstien, and Pearson has already been described in detail above with respect to claims 1 and 9. It is noted that Serikawa is classified in a completely different U.S. Patent classification than Canada, Harrenstien, and Pearson. As such, one skilled in the art would be extremely unlikely to combine four references from disparate patent classifications to achieve the combination alleged in the Office Action. The Office Action asserts that it would have been obvious to one skilled in the art to provide the teaching of Serikawa into the system of Canada, Harrenstien, and Pearson "in order to prevent collision." (See Office Action, p. 8.) The cited section of the Office Action quotes Serikawa and appears to describe the motivation for Serikawa to create the invention described in Serikawa. However, there is no motivation for combining Serikawa with three other unrelated patent references. The applicants respectfully request that the Examiner point to objectively verifiable evidence indicating the motivation to combine the references in the manner suggested in the Office Action. In the absence of such motivation, there is no *prima facie* case of obviousness. As such, Claim 13 is clearly allowable over the combination of Canada, Harrenstien, Pearson, and Serikawa.

Claims 18-21 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Canada, Serikawa, and Patel. The applicants respectfully traverse this rejection and request reconsideration. It is noted that each of the three references cited above are classified by the U.S. Patent Office in completely different

classifications with no overlapping classifications. As such, it is extremely unlikely that one skilled in the art would combine three disparate references to achieve the invention, as asserted in the Office Action. The Office Action states that it would be obvious to provide the teaching of Serikawa into the system of Canada "in order to prevent collision." (See Office Action, p. 8.) The Office Action provides a motivation for Serikawa to create the invention of Serikawa, but provides no motivation to combine Serikawa with Canada. Similarly, the Office Action states that it would be obvious to combine the teaching of Patel into the system of Canada and Serikawa "in order to rationalize the data processing by transmit the accumulated data." (See Office Action, p. 9.) Although the quoted section of the Office Action purports to be taken from Patel, no such language exists in Patel if Column 1, lines 1-12. The Examiner appears to be providing a motivation for Patel to create the invention of Patel, but provides no motivation for combining Patel with Canada and Serikawa, as asserted in the Office Action. The applicants respectfully request that the Examiner point to objectively verifiable evidence that suggests a motivation for this combination of references. In the absence of such motivation, no *prima facie* case of obviousness has been established. For at least this reason, claims 18-22 are allowable over Canada, Serikawa, and Patel.

In addition, the Examiner mischaracterizes the applicants comments in a response dated July 22, 2004. At page 13, lines 13-14 of that response, the applicants state that Serikawa includes "a description of inhibiting transmission of the 'C-channel' in response to a power failure." This characterization of Serikawa is completely consistent with the section of Serikawa cited by the Examiner (i.e., Column 36, lines 49-58). The applicants' characterization of Serikawa and the Examiner's mischaracterization of that same passage are inappropriately used as a basis for rejecting claims 18-21. Specifically, the Examiner asserts that the cited section of Serikawa (Column 36, lines 49-58) disclose "tearing down a data traffic channel used by the transceiver circuit in response to detecting that a power failure has occurred." (See Office Action, p. 8.) This is a mischaracterization of the cited section of Serikawa. In Column 36, lines 49-58, Serikawa describes a technique for preventing collision when multiple units attempt to re-register after a power failure has been resolved. Serikawa describes a technique for inhibiting transmission of some units in order to prevent such

a collision. This process is totally unrelated to “tearing down a wireless data traffic channel used by the wireless transceiver unit in response to detecting that a power failure has occurred,” as recited in Claim 18. Thus, the Examiner persists in mischaracterization of the reference and has ignored the applicants’ previous comments in this regard.

The only basis for the rejection of claims 18-21 is the Examiner’s mischaracterization of references in the unsupported combination of references. As such, claims 18-21 are clearly allowable over Canada, Serikawa, and Patel.

Claims 22-25 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Canada and Gehrig. The applicants respectfully traverse this rejection. The applicants previously noted that Canada is directed to techniques for monitoring machines in a manufacturing setting while Gehrig is directed to an automobile traffic guidance system. It is further noted that Canada and Gehrig are classified in two unrelated patent classifications. As such, one of ordinary skill in the art would be unlikely to combine the references in the manner asserted in the Office Action. The applicants have previously requested that the Examiner point to objectively verifiable evidence that suggests such a combination. In an apparent response to the applicants’ request, the Examiner states that it would be obvious to provide the teaching of Gehrig into the system of Canada “in order to provide a method and device for communication in traffic guidance systems in that the data and voice channels reserved for traffic operation can be better utilized.” (See Office Action, p. 10.) What the Examiner describes is the possible motivation for Gehrig to create the invention described in Gehrig. That is, an automobile traffic guidance system. It is noted that the present invention is unrelated to an automobile traffic guidance system. The applicants respectfully request that the Examiner point to objectively verifiable evidence of a motivation to combine Canada and Gehrig. In the absence of such motivation, no *prima facie* case of obviousness has been established. Under these circumstances, claims 22-25 are allowable over the combination of Canada and Gehrig.

In addition to the lack of motivation for the combination asserted by the Office Action, the references themselves do not teach or suggest the invention recited in claims 22-25. Claim 22 is a method claim. The Office Action cites Canada as teaching

only the elements recited in the preamble of Claim 22. The Office Action admits that Canada does not disclose any of the actual claim elements. For this reason alone, claims 22-25 are allowable over the combination of Canada and Gehrig. Furthermore, as noted in the applicants' amendment of April 25, 2006, and discussed in the preappeal brief, the Examiner has mischaracterized Gehrig and ignored applicants' comments with respect to that mischaracterization. Specifically, the section of Gehrig cited in the Office Action merely states that minimal equipment expenditures in vehicle may not result in the guaranteed operation in accordance with the described method and device. As a result of cyclic monitoring of the polling system transmitted by the master terminal once per polling cycle, time losses or undesired interruptions of communication can occur. It is important to note that Gehrig does not suggest polling in response to the detection of a communication failure. Rather, Gehrig describes a process in which the loss of data may result from infrequent polling. To overcome this problem, Gehrig suggests an implementation utilizing two receivers, which are described at Column 6, lines 50-66. In contrast, the method of Claim 22 recites polling in response to a communication failure. This is the opposite of Gehrig where the communication failure (i.e., the loss of data) is the result of infrequent polling. The combination of Canada and Gehrig do not teach or suggest polling in response to the detection of a communication failure. For at least these reasons, claims 22-25 are clearly allowable over the combination of Canada and Gehrig.

Claims 26-28 stand rejected under 35 U.S.C. § 103 as unpatentable over the combination of Canada and U.S. Patent No. 6,108,785 to Poisner. The applicants respectfully traverse this rejection. The applicants note that Canada and Poisner are classified by the U.S. Patent Office in two completely different and unrelated patent classifications, with no overlapping classification. As such, one of ordinary skill in the art is unlikely to combine the references in the manner asserted in the Office Action. The applicants have previously requested that the Examiner point to objectively verifiable evidence that suggests such combination. In an apparent response to this request, the Office Action states that it would have been obvious to provide the teaching of Poisner into the system of Canada "in order to prevent unauthorized usage of device." (See Office Action, p. 12.) It should be noted that claims 22-25 are totally

unrelated to unauthorized usage of a device. What the Examiner has provided is the possible motivation for Poisner to create the invention described in Poisner. As has been noted, this is a motivation to create one invention (i.e., Poisner), but does not provide any motivation for combining Poisner with Canada. In the absence of such motivation to combine references, the Examiner has failed to establish a *prima facie* case of obviousness. For at least this reason, claims 26-28 are allowable over the combination of Canada and Poisner.

In addition, the combination of Canada and Poisner does not teach or suggest the claimed invention. Claim 26 is a method claim reciting, inter alia, "sending an information request message over a broadcast channel for receipt by a plurality of wireless transceiver units" as well as "receiving information from each available wireless transceiver unit at random points in time over a shared channel in response to sending the information request message." Thus, the method recited in Claim 26 recites the interrelated elements of sending an information request and receiving information from each available wireless unit at random points in time in response to the information request message. The Office Action asserts that Canada teaches receiving information from wireless transceiver units at random points in time and admits that Canada does not disclose such receipt of information is in response to sending the information request message. Indeed, the section of Canada recited in the Office Action merely states an installation process can be interrupted and resumed at any time. This does not teach or suggest that a device respond to an information request message by transmitting information at random points in time in response to sending the information request message. To overcome this serious shortcoming, the Office Action combines Poisner, which is related to computer security and is not related to telecommunications, wireless communication units, or a wireless communication network. Indeed, the section of Poisner cited in the Office Action merely describes transmission of an authentication key in response to a request for such an authentication key. The combination of references do not teach or suggest the method of Claim 26. Accordingly, claims 26-28 are clearly allowable over the combination of Canada and Poisner.

Claims 29-31 stand rejected under 35 U.S.C. § 103 as unpatentable over the combination of Canada and U.S. Patent No. 5,526,357 to Jandrell. The applicants respectfully traverse this rejection. As discussed in previous responses, Canada and Jandrell have been classified by the U.S. Patent Office in completely different and unrelated patent classifications with no overlap in the patent classifications or in the fields of search. As such, it would be extremely unlikely for a person of ordinary skill in the art to combine the teachings of two unrelated references as asserted by the Office Action. The Office Action states that it would be obvious for a person of skill in the art at the time of the invention to combine the teaching of Jandrell into the system of Canada "in order to provide a system for communication efficiency and minimizing the effect of multipath interference." (See Office Action, p. 13.) It should be noted that claims 29-31 are completely unrelated to communication efficiency and are totally unrelated to multipath interference. While the applicants have requested that the Examiner provide a motivation for combining the references, the Examiner merely provides an indication of the motivation of Jandrell for creating the invention of Jandrell. This is not a motivation for combining Jandrell and Canada. The applicants respectfully request that the Examiner provide an objective evidence suggesting the combination of Jandrell and Canada. In the absence of such objective motivation, there is no *prima facie* case of obviousness. As such, claims 29-31 are allowable over the combination of Canada and Jandrell.

Furthermore, the Office Action mischaracterizes the teachings of Jandrell by stating that Jandrell teaches "delaying for a random period of time in response to receiving the information request message." (See Office Action, p. 13.) This is incorrect. The cited section of Jandrell discusses a well known communications protocol sometimes referred to as an ALOHA protocol. Under the ALOHA protocol, a transmitting device transmits a service request message. If the message is successfully received, the service requested by the message is scheduled. If the request should fail for any reason, including a collision with another message from a different transmitting device, the device will wait a random period of time and retransmit its request message. However, at no time is the transmitting device randomly delaying transmission of a request message in response to a received message, as asserted by the Office Action.

For at least this reason, claims 29-31 are allowable over the combination of Canada and Jandrell.

In view of the above amendments and remarks, reconsideration of the subject application and its allowance are kindly requested. In an effort to advance prosecution of this case, the Examiner is invited to contact the undersigned at (206) 628-7640.

Respectfully submitted,

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